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United States District Court
Northern District of California

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

IN RE GOOGLE PLAY STORE
ANTITRUST LITIGATION

MDL Case No. 21-md-02981-JD

Member Case Nos. 20-cv-05761-JD,
21-cv-05227-JD

**ORDER RE DR. SINGER'S PROPOSED
EXPERT TESTIMONY**

The Court held a concurrent expert evidence proceeding on August 1, 2023, for

defendants' motion to exclude the merits opinions of Dr. Hal Singer, an economist offered by the

Consumer and State plaintiffs. *See* MDL Dkt. Nos. 487, 556. Dr. Singer and Dr. Gregory

Leonard, an economist offered by defendants, are directed to answer these follow-up questions

under oath.

Background

Dr. Singer uses a logit model of one minus an app's share of its Play Store category to

calculate the app's pass-through rate of Google's service fee for use of the Play Store. Dr. Singer

appears to agree that the logit model assumes that the products in issue are substitutes in

proportion to their shares (the IIA assumption). *See* MDL Dkt. No. 487 at 7-8; MDL Dkt. No. 508

at 6. Dr. Leonard challenges the use of the logit model as unreliable because the apps in the Play

Store categories are too diverse to be substitutes in proportion to their shares. Dr. Singer says that

he "applied standard econometric methods (regression analysis) to Google's voluminous

transactional data to confirm the logit applies in this case." MDL Dkt. No. 540-2 at 11.

Dr. Singer also says that "even when IIA is not strictly satisfied," the logit model can "still be a

reliable approximation of pass through." *Id.* at 12.

United States District Court
Northern District of California

1   Questions

2   A.   What economic literature states that a regression analysis is a reliable way

3   of (i) testing for the IIA assumption in the logit model, or (ii) confirming that a logit model can be

4   used to reliably measure the relevant demand curve here?

5   B.   To what extent can IIA be "not strictly satisfied" before the use of logit

6   model becomes unreliable? How can the Court know that this limit has not been crossed here?

7   How close is the "approximation" that Dr. Singer posits, and how can the Court have confidence

8   that his logit model has produced a sufficiently reliable approximation of pass-through here even if

9   the apps in each category are not proportional substitutes for one another?

10   C.   Is a per-unit pass-through rate necessarily greater that an *ad valorem* pass-

11   through rate in this case? If so, why? Does this affect the reliability of Dr. Singer's pass-through

12   formula?

13   D.   For the Play Points analysis, Dr. Singer used the example of AT&T in the

14   1980s as a benchmark for modeling the but-for world, positing that Google's market share would

15   likely decline to 60% with competition, just as AT&T's did decades ago. Is the AT&T case an

16   example of a two-sided market like the Google Play Store? Does that matter for its

17   appropriateness for use as a benchmark here?

18   These questions will be answered in sworn declarations by Dr. Singer and Dr. Leonard.

19   The substantive answers must be prepared by the experts themselves, and not by counsel. The

20   responsive declarations must be filed by counsel on the ECF docket by August 14, 2023.

21   **IT IS SO ORDERED.**

22   Dated: August 6, 2023

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25   JAMES DONATO
     United States District Judge

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